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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/725,809	11/30/2000	Michihiro Kaneko	Q62005	8716
7590 06/16/2005 SUGHRUE, MION, ZINN, MACPEAK & SEAS 2100 Pennsylvania Avenue, N.W. Washington, DC 20037			EXAMINER GRIER, LAURA A	
			ART UNIT	PAPER NUMBER
			2644	

DATE MAILED: 06/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/725,809

Applicant(s)

KANEKO ET AL

Examiner

Laura A. Grier

Art Unit

2644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9-15 is/are allowed.
- 6) ☒ Claim(s) 1-8, 16-29 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 16-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 16 (dependent claims 17-29), the claim language of the “input/output circuit” limitation, which describes the function of the input/output circuit is indefinite. For the purpose of examination, the recited claim language as interpreted, implies that the circuit functions as an input and output circuit. The claim language does not clearly indicate that circuit receives any information. The phrase, “...inputs control information”, provides an interpretation that it actually provides an input into another device, which is parallel to an output. Thus, the claim language is indefinite.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this

subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 1, 5-8, 16-17 and 23-25** are rejected under 35 U.S.C. 102(e) as being anticipated by Brooks, Jr. et al., U. S. Patent No. 6212555.

Regarding claim 1, and 7, Brooks, Jr. et al., (herein, Brooks) discloses an audio transfer storage and playback system (figures 1-3). Brooks disclosure comprises a computer server (1) with music/recording libraries of prerecorded music or voice on tapes, CDs, etc., and means of recording and storing live music or voice, wherein the recorded music may be categorized as to format as classical, jazz, contemporary, rap, and others, and same for the recorded voice works (col. 3, lines 6-65) which can be transmitted to a audio player. The plurality of different audio data files constitutes as the plurality of unit information. Brooks discloses a data storage means (12), which reads on storage device for the plurality of audio data files; via the means (9) for processing the audio data files for transmission, the transmission means (5) transmits the files to that audio receiver/playback device (6)- (claim 7, audio information reproducing apparatus), which includes a microprocessor which act as both a transferring device and an obtaining device, wherein it inherent that the computer server (1) - (generating means) enables the creation of reproduction control information as evident by the fact that the server act as holding for the audio data and prepares it for adequate (provides encoding, compression, etc) transmission to the audio receiver/playback device; the playback (18) reads on the reproducing device, and the microprocessor act as well as the controller, the user interface (25) can also constitute as a controller.

Regarding **claim 5**, Brooks discloses everything claimed as applied above (see claim 1). Brooks disclose that information and/or data may be transferred and/or transmitted via telephone

line connections or wireless communication transmission (col. 3, lines 33-41 and figure 3), which indicates electric communication line.

Regarding **claim 6**, Brooks discloses everything claimed as applied above (see claim 1). Brooks disclose that the information data may be record onto a record medium wherein the reproduction control information is transferred as well (col. 3, lines 6-26).

Regarding **claim 8**, Brooks discloses everything claimed as applied above (see claim 7). Brooks further disclose the receiver/player device, which may be unit for use in an automobile (col. 3, lines 49-53), which reads on movable body being a car.

Regarding claim 16, Brooks discloses an audio transfer storage and playback system (figures 1-3). Brooks disclosure comprises a computer server (1) with music/recording libraries of prerecorded music or voice on tapes, CDs, etc., and means of recording and storing live-music or voice, wherein the recorded music may be categorized as to format as classical, jazz, contemporary, rap, and others, and same for the recorded voice works (col. 3, lines 6-65) which can be transmitted to a audio player. The plurality of different audio data files constitutes as the plurality of unit information. Brooks discloses a data storage means (12), which reads on memory for storing the plurality of audio data files; via the means (9) for processing the audio data files for transmission, the transmission means (5) transmits the files to that audio receiver/playback device (6), which includes a microprocessor which act as input/output circuit and as a controller and the user interface (25) can also constitute as a controller.

Regarding **claim 17**, Brooks discloses everything claimed as applied above (see claim 16). Brooks' disclosure teaches that the unit information may be a music work (music composition) which inherently supports the plurality of audio information comprising at least a

1st and 2nd song, and provides identifying information of the songs via the alphanumeric information about the particular piece of music (col. 4, lines 2-6).

Regarding **claims 23-25**, Brooks discloses everything claimed as applied above (see claim 16). Brooks' microprocessor coupled to various forms of memory capabilities (col. 3, lines 46-65).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 3 and 18-19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Brooks.

Regarding **claim 3**, Brooks discloses everything claimed as applied above (see claim 1). Brooks fails to disclose the particular order of how the audio data is reproduced. It is well known in the art to provide a particular play scheme for a plurality of stored audio data. Thus, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Brooks by providing specific control information as to what order stored audio data is reproduced for the purpose of customizing audio playback as desired.

Regarding **claim 18**, Brooks discloses everything claimed as applied above (see claim 17). Even though, Brooks disclosure indicates the music is categorized (col. 3, lines 6-17), Brooks fails to disclose the particular order of how the audio data is reproduced. It is well

known in the art to provide a particular play scheme for a plurality of stored audio data. Thus, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Brooks by providing specific control information as to what order stored audio data is reproduced for the purpose of customizing audio playback as desired

Regarding **claim 19**, Brooks discloses everything claimed as applied above (see claim 1). Brooks fails to disclose the particular order of how the audio data is reproduced. However, the claim limitation is interpreted as a sorting technique, which is well known technique. Thus, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Brooks by providing specific control information as to what order stored audio data is reproduced, such as sorting or the like, for the purpose of customizing audio playback as desired

7. **Claims 2 and 28** are rejected under 35 U.S.C. 103(a) as being unpatentable over Brooks in view Ogawa et al., U. S. Patent No. 6147938.

Regarding **claims 2 and 28**, Brooks discloses everything claimed as applied above (see claim 1). Brooks disclosure teaches that the unit information may be a music work (music composition) and obviously provides indication of partial music information, as evident by the fact that alphanumeric information about the particular piece of music can be provided (col. 4, lines 2-6). However, Brooks fails to specifically disclose the title of the music composition. The examiner maintains that the title of a music composition was well known.

Regarding providing a title of the music composition, Ogawa discloses a vehicle electronic audio system comprising an electronic control unit (a cassette tape, mini disk or CD), wherein the electronic control unit provides display information data such as an album title, song

title, and the like of the audio being recorded (col. 15, lines 36-40), which reads on a the title of a music composition.

Thus, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Brooks by providing the title of the music piece as part of the audio information or correspondence information of the audio/music for the purpose of enabling the user to know the name or title of the audio selection being played.

8. **Claims 4 and 29** are rejected under 35 U.S.C. 103(a) as being unpatentable over Brooks in view of Ogawa et al.

Regarding **claims 4, and 29**, Brooks discloses everything claimed as applied above (see claim 1 and 16, respectively). Brooks disclosure provides a display for the display an alphanumeric information of the audio works (col. 4, lines 2-6). However, Brooks fails to specifically disclose the title of the music composition. However, the examiner maintains that such a display providing the title of a music composition was well known.

Regarding the display providing a title of the music composition, Ogawa discloses a vehicle electronic audio system comprising an electronic control unit (a cassette tape, mini disk or CD), wherein the electronic unit comprises a display for displaying an album title, song title, and the like of the audio being recorded (col. 15, lines 36-40), which reads on a displaying the title of a music composition.

Thus, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Brooks by providing a display of the title of the

music piece for the purpose of enabling the user to see the name or title of the audio selection being played.

9. **Claims 26-27** are rejected under 35 U.S.C. 103(a) as being unpatentable over Brooks. Regarding claims 26-27, Brooks discloses everything claimed as applied above (see claim 16). However, Brooks fails to specifically disclose control information for indicating the tone of the audio to be reproduced. Control information for indicating the tone of audio is well known in the art. Thus, it would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the invention of Brooks by providing tone control information for the purpose of control the tone of particular songs during reproduction to a listener.

10. Claims 9-15 are allowed.

11. Claims 20-22 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

12. Applicant's arguments with respect to claim 4/5/05 have been considered but are moot in view of the new ground(s) of rejection.

The applicant essentially argues the prior art reference, Brooks, fails to disclose an obtaining device for receiving reproduction control information from a generating means based information received from a transferring device. Upon further review of the Brooks is maintained in the prior art rejection. Brooks' combination audio receiver/player/data storage

device comprises a microprocessor. The microprocessor as disclosed provide support of being both an obtaining device and transfer device as evident by the fact that microprocessor receives the transmitted information via a transmission means, and has dual receiving and transmitting capabilities between both the user interface and the coupling memory means. Computer server reads on the generating means because it is the initial source of generation of the audio data files upon which they further processed for adequate transmission to the transmission means, which that the data files are arranged and processed accordingly, and obviously specific reproduction control information is transmitted along with the audio data for the purpose adequately processing the data for audio output. Reproduction control information can consist of many characteristics and/or factors, such as the compression, encoding, demodulation, etc. and as well as how the information reproduced and/or in a specific order.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura A. Grier whose telephone number is (571) 272-7518. The examiner can normally be reached on Monday - Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh N. Tran can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2644

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Laura A. Grier
June 13, 2005